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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

7 HARVEY JERRELS,

8 Plaintiff,

9 v.

10 DEPARTMENT OF CORRECTIONS,  
11 BELINDA STEWART, PAT GLEBE,  
12 CATHY M. BAUM, ARNP, and CHARLES  
JONES,

13 Defendants.

No. C11-5712 BHS/KLS

ORDER DENYING MOTION TO  
COMPEL

14 Before the Court is Plaintiff's motion to compel. ECF No. 14. Defendants oppose the  
15 motion on the grounds that Plaintiff failed to comply with FRCP 37(a) and because the discovery  
16 Plaintiff seeks is addressed to the wrong defendant. ECF No. 15. Plaintiff replies that his  
17 attempts to set up a telephone conference with defense counsel were ignored. ECF No. 17. The  
18 Court anticipates that the parties will cooperate in good faith to resolve their discovery disputes  
19 prior to seeking Court intervention. "A good faith effort to confer with a party or person not  
20 making a disclosure or discovery requires a face-to-face meeting or a telephonic conference."  
21 Local Rule CR 37(a)(1)(A). Because it appears there is some dispute as to whether Plaintiff has  
22 made some attempt to confer with Defendants prior to filing his motion to compel, the motion  
23 will not be denied on the grounds that it is premature.  
24

25 However, it is clear from Defendant Glebe's responses to Plaintiff's discovery that he  
26 does not have possession of or personal access to the records that Plaintiff seeks. It is also clear

1 that the records Plaintiff seeks are in the possession of the Department of Corrections, which is  
2 also named as a party in this lawsuit. Thus, Plaintiff need only correctly address his discovery to  
3 the Department of Corrections so that the Department of Corrections can respond. Although  
4 Plaintiff may believe that Defendant Glebe “has the legal right and ability to access said  
5 documents”, there is no evidence before the Court that this is so. There is no evidence that  
6 Defendant Glebe has responded to the discovery in bad faith and in fact, it appears that he has  
7 cooperated with Plaintiff in alerting him to where the discovery may be found.  
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9 Accordingly, it is **ORDERED**:

10 (1) Plaintiff’s motion to compel (ECF No. 14) is **DENIED**.

11 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.  
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13 **DATED** this 27th day of January, 2012.  
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16 Karen L. Strombom  
17 United States Magistrate Judge  
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